



City of Seattle

Greg Nickels, Mayor
Department of Planning and Development
Diane Sugimura, Director

INTERPRETATION OF THE DIRECTOR PURSUANT TO TITLE 23 OF THE SEATTLE MUNICIPAL CODE

Regarding a Proposed Amendment)	
to the Harborview Medical Center)	Master Use Permit No. 2306410
Major Institution Master Plan)	

BACKGROUND

Harborview Medical Center (HMC) has submitted an interpretation request. The HMC is requesting a minor amendment to its Major Institution Master Plan (MIMP), which the City adopted on August 24, 2000, pursuant to Chapter 23.81 of the Land Use Code. The amendment would modify a specific condition relating to replacement housing adopted as part of the Harborview Medical Center MIMP.

This interpretation addresses three issues. The first is whether the proposal is a “minor” or “major” amendment to the adopted MIMP pursuant to Section 23.69.035 of the Land Use Code. The second is whether the proposed revision meets the minor amendment criteria specified in Section 23.69.035.D. The third is whether any conditions should be applied to approval of the amendment to mitigate anticipated impacts.

FINDINGS OF FACT

1. The HMC campus is located on First Hill in Seattle, generally, between I-5 to the west; James Street to north; Terry Avenue to the east; and Alder Street to the south. Development surrounding the HMC campus includes the Yesler Terrace residential community to the south; apartment buildings and senior housing to the east and north; and a few small commercial uses located on the south side of James Street between 9th and Terry Avenues. St. James Cathedral is located three blocks to the north and Trinity Church is located one block to the northwest.
2. Harborview Medical Center prepared a Draft and Final Environmental Impact Statement (EIS) for the Master Plan. The DEIS was published on April 30, 1999 and the FEIS on November 12, 1999. Impacts on housing were evaluated in these documents. Conditions of approval of the Master Plan mitigate significant adverse impacts.
3. The Seattle City Council approved the Harborview Medical Center Major Institution Master Plan on August 21, 2000 and the final approval ordinance #120073 is dated August 24, 2000. The Master Plan “furthers the commitment of Harborview to provide safe and sufficient facilities for the highest quality of health care, teaching, research, and community service (p. 3).

4. Section 23.69.035.A, of the Land Use Code provides for the Director to determine whether a proposed change to a master plan is an exempt change, a minor amendment, or a major amendment.

5. Section 23.69.035.B, states *"that an exempt change shall be a change to the design and/or location of a planned structure or other improvement from that shown in the master plan, which the Director shall approve without publishing an interpretation. Any new gross floor area or parking space(s) must be accompanied by a decrease in gross floor area or parking space(s) elsewhere if the total gross floor area or parking spaces permitted for the entire MIO District or, if applicable, the sub-area would be exceeded. Each exempt change must meet the development standards for the MIO District. Exempt changes shall be:*

- 1. Any new structure or addition to an existing structure not approved in the master plan that is twelve thousand (12,000) square feet of gross floor area or less; or*
- 2. Twenty (20) or fewer parking spaces not approved in the master plan; or*
- 3. An addition to a structure not yet constructed but approved in the master plan that is no greater than twenty percent (20%) of the approved gross floor area of that structure or twenty thousand (20,000) square feet, whichever is less; or*
- 4. Any change in the phasing of construction, if not tied to a master plan condition imposed under approval by the Council; or*
- 5. Any increase in gross floor area below grade."*

6. Section 23.69.035.D, provides that *"a proposed amendment to an adopted Master Plan shall be considered and approved as a minor amendment when it is not an exempt change, when it is consistent with the original intent of the adopted master plan, and when it meets at least one of the following criteria:*

- 1. The amendment will not result in significantly greater impacts than those contemplated in the adopted master plan; or*
- 2. The amendment is a waiver from a development standard or master plan condition, or a change in the location or decrease in size of designated open space, and the proposal does not go beyond the minimum necessary to afford relief and will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity in which the Major Institution is located; or*
- 3. The amendment is a proposal by the Major Institution to lease space or otherwise locate a use at street level in a commercial zone outside an MIO district, and within two thousand five hundred feet (2,500') of the MIO District boundary, and the use is allowed in the zone for but not permitted pursuant to Section 23.69.022. In making the determination whether the amendment is minor, the Director shall consider the following factors:*
 - a. Whether an adequate supply of commercially zoned land for business serving neighborhood residents will continue to exist, and*
 - b. Whether the use will maintain or enhance the viability or long term potential of the neighborhood-serving character of the area, and*
 - c. Whether the use will displace existing neighborhood-serving commercial uses at street level or disrupt a continuous commercial street front, particularly of personal and household retail sales and service uses, and*

d. Whether the use supports neighborhood planning goals and objectives as provided in a Council-approved neighborhood plan.

7. Section 23.69.035.(E) provides that *a proposed change to an adopted master plan shall be considered a major amendment when it is not an exempt change according to subsection B of this section or a minor amendment according to subsection D of this section. In addition, any of the following shall be considered a major amendment:*

1. An increase in a height designation or the expansion of the boundary of the MIO District; or

2. Any change to a development standard that is less restrictive; or

3. A reduction in housing stock outside the boundary but within two thousand five hundred feet (2,500') of the MIO District, other than within a Downtown zone, that exceeds the level approved in an adopted master plan; or

4. A change to the single-occupancy vehicle goal of an approved transportation management program that increases the percentage of people traveling by single-occupancy vehicle; or

5. A use that requires Council Conditional Use approval, including but not limited to a helistop or a major communication utility, that was not described in an adopted master plan; or

6. The update of an entire development program component of a master plan that was adopted under Code provisions prior to the 1996 Major Institutions Ordinance where the institution proposes an increase to the total amount of gross floor area allowed or the total number of parking spaces allowed under the institution's existing development program component within the MIO District.

8. As approved, the Master Plan includes the following condition:

14. Demolition of the 64 housing units for the Planned Projects is subject to the following conditions. Harborview shall:

- Provide one-for-one replacement housing of all units prior to demolition of the existing units; Provide the replacement housing units within the First Hill/Capitol Hill Urban Center boundary, with a preference for locations within the First Hill Urban Center Village boundary;
- Replace the units with substantially the same size of units and affordability levels, as measured at the time of MIMP approval;
- Ensure that the replacement units are available for a period of ten years;
- Develop the replacement housing units without City funds, with the exception of possible short-term City financing which must be reimbursed by Harborview/King County;
- Provide the replacement units through rehabilitation of a vacant building, construction of a new building, or preservation of existing federally-assisted units that are losing federal funding, but not through any other means of displacement of existing housing units; and
- Provide relocation assistance as required by City regulations, but if tenant relocation costs exceed the amount provided under the City's Tenant Relocation Assistance Ordinance, Harborview will provide relocation assistance of up to 50% above the private contribution required by the City through the Tenant Relocation Assistance Ordinance.

8. On August 29, 2003, HMC requested that Condition 14 be modified as follows:

Replace: "Provide one-for-one replacement housing of all units prior to demolition of the existing units" with:

"Provide one-for-one replacement of all housing units except that the Director may approve fewer than one-for-one replacement of housing units if the affordability tenure of the proposed units is at least 20 years. The Director will waive the requirement that replacement housing be constructed prior to demolition of housing units if a contribution of \$1.5 million is made by Harborview to a City escrow account to be used for development of affordable housing in the First Hill/Capital Hill Urban Center as mitigation under this MIMP. A viable project has been identified, however, if the current project does not proceed as agreed to in the timeframe set by the applicant and DCLU, such funds may be utilized by the City, as deemed appropriate, to satisfy replacement housing on First Hill. Harborview's housing mitigation requirements will be completely satisfied by meeting the aforementioned terms."

Replace: "Develop the replacement housing units without City funds, with the exception of possible short-term City financing which must be reimbursed by Harborview/King County" with:

"Develop the replacement housing units in a manner that compliments City-funded programs and housing needs in the First Hill community".

9. Based on comments from the Citizen's Advisory Committee (CAC), other neighborhood sources, and confirmation of funding sources for the "Cabrini Project" (described below), HMC submitted on November 18, 2003, the following modified amendment request:

Replace: Provide one-for-one replacement housing of all units prior to demolition of the existing units" with

"Provide one-for-one replacement of all housing units except that the Director may approve fewer than one-for-one replacement of housing units if the affordability tenure of the proposed units is at least 50 years. The Director will waive the requirement that replacement housing be constructed prior to demolition of housing units if a contribution of \$1.5 million is made by Harborview into a City escrow account to be used for development of the Cabrini Senior Housing project. If the Cabrini Senior Housing project does not begin construction by December 31, 2005, Harborview shall identify another replacement project to satisfy this condition."

Delete the previously requested amendment relating to the condition that states, "Develop the replacement housing units without City funds, with the exception of possible short-term City financing which must be reimbursed by Harborview/King County." This condition will remain as originally adopted by the City Council, Harborview and the Low Income Housing Institute will submit to the Mayor a letter stating that no City funds will be requested if funding gaps arise.

10. HMC assessed several projects in the First Hill/Capital Hill neighborhood and determined that a project proposed by the Missionary Sisters of the Sacred Heart at the former site of Cabrini

Hospital (“Cabrini Project”) was the most viable proposal available to meet the proposed modified condition of approval. The Cabrini Project is located on First Hill at the southwest corner of Madison Street and Boren Avenue. The proposal would include two phases, with the first phase containing 50 one-bedroom units at 50% of Median income together with retail space and parking. The second phase would include additional housing units, including retail and parking. A comparison of the current MIMP condition and the Cabrini Project is depicted in the following table:

	MIMP CONDITION	CABRINI SENIOR HOUSING
NUMBER OF UNITS	64	50
AFFORDABILITY TENURE	10 years (7,680 months for 64 units)	50 years (30,000 months for 50 units)
INCOME REQUIREMENTS	60%, 50%, 30%	50%
VICINITY	First Hill	First Hill
CITY CONTRIBUTION	0	0
SCHEDULE	Housing Provided Pre-Construction	Housing Commitment Provided Pre-Construction

11. HMC believes the Cabrini Project would meet the overall intent of the housing mitigation conditions contained in the MIMP. Although the proposed project would result in fewer housing units, the difference would be offset by a nearly 4 to 1 increase in the affordability tenure assigned to those units. The Cabrini Project would provide 30,000 months of affordable housing as opposed to the requirement of 7,680 months in the MIMP. The project would generally be within the range of income requirements as measured at the time of the MIMP approval and would meet the First Hill locational criteria.

The Cabrini Project schedule contemplates that the replacement housing will likely not be available until after the existing 64 housing units are demolished by HMC. The Cabrini Project is scheduled to break ground in the fourth quarter of 2004 with completion at the end of 2005. Although the current MIMP condition requires replacement of units prior to demolition, Harborview’s position is that the suitability of the Cabrini Project merits reconsideration of the approved condition #14.

11. Initially HMC proposed to alter the MIMP condition regarding contribution of City funds. In the event that the Cabrini Project did not move forward, and it was necessary to pursue additional housing replacement options, HMC asserted that it would have been in a better position to potentially partner with the City or compliment other City housing replacement projects/programs if the restriction on developing housing units without City funds was removed. HMC asserts this would be consistent with the EIS and subsequent Hearing Examiner finding adopted by the City Council for Harborview to continue to work with First Hill institutions, churches, social services providers and governmental agencies in the development of additional housing opportunities.

The proponents of the Cabrini Project have secured financing and have applied for a Master Use Permit, which is under active review and will likely be ready for issuance by the end of May, 2004.

12. Section 23.69.035.C, states that *"the Advisory Committee shall be given the opportunity to review a proposed minor or major amendment and submit comments on whether it should be considered minor or major, and what conditions (if any) should be imposed if it is minor. The Director shall determine whether the amendment is minor or major according to subsections D and E of this section... After the Director makes a decision on whether an amendment is minor or major, the Advisory Committee shall be notified"*.

13. On September 25, 2003, the Harborview Medical Center Citizens Advisory Committee voted against the proposed change with two abstaining because of potential conflicts of interest. Generally, they stated the proposed request should be considered a "Major Amendment" rather than a "Minor Amendment"; HMC failed to examine property it already owns (as required by Council Condition #15); HMC ought to replace 64 units as "clearly and unequivocally" stated in Council Condition 14; and the amount of funds (\$1.5 million) proposed in lieu of constructed housing is inadequate and contrary to the intent expressed by the City Council.

14. The Citizens Advisory Committee was informed of the modified request and was discussed at their meeting on January 14, 2004. While there were differing opinions, there was general support for the Cabrini Project, but at issue was whether the CAC would ask the City to require HMC to replace 14 more units (in addition to the 50 at the Cabrini Project to equal the 64 units to be demolished). Also, the CAC prefers a different approach to contingency planning form that proposed by HMC should the Cabrini project not move ahead. In response, a condition is attached to this interpretation requiring approval of an alternate plan prior to issuance of future Master Use Permits to HMC.

CONCLUSIONS

1. The Director of DCLU has the authority to determine whether a proposed MIMP amendment is a minor amendment or a major amendment pursuant to Land Use Code section 23.69.035.A.
2. The proposed changes to the Master Plan do not meet the criteria of an exempt change to the Master Plan as stated in Land Use Code section 23.69.035.B.
3. The proposed changes to the Master Plan do not meet the criteria for a major amendment to as stated in Land Use Code section 23.69.035.E.
4. The proposed changes to the Master Plan meet at least one of the criteria specified in Land Use Code section 23.69.035 D. While the proposed modified housing replacement condition will not replace the demolished units on a one to one basis, fifty new units with a much longer duration of affordability will be provided on a prominent neighborhood site that has long been vacant site. The proposed modification to the replacement of housing units does not represent a substantial departure form the intent of original condition and, therefore, does not go beyond the minimum necessary to afford relief and will not be materially detrimental to the public welfare

or injurious to the property or improvements in the vicinity in which the Major Institution is located.

5. The proposed changes to the Master Plan are consistent with the original intent of the Master Plan, which is to provide replacement housing lost as a result of new construction at Harborview Medical Center.

The original Council condition of approval requested a one to one replacement of existing 64-units of housing for a period of 10 years. HMC has demonstrated that the proposed replacement housing, though less than one-to-one replacement, at 50 units, would be available to a variety of low income groups for a period of 50 years. The duration of availability of these units at various low income levels would be nearly four times the amount requested by Council. The housing units would be located on First Hill on an important neighborhood site that has long-awaited redevelopment and has been vacant and fenced for many years. The replacement housing would be new and no City funding will be needed.

6. HMC has demonstrated a "good faith" attempt to provide replacement housing in the First Hill/Capital Hill neighborhoods as directed, prior to demolition of the subject housing units. HMC's programmatic goals, backed by voter-approved bonds necessitate a construction schedule that must begin in 2004. The Cabrini Project is proceeding through the permit process and has secured funding for construction. It is anticipated that the housing units would be available for occupancy by the end of the year, 2005.

DECISION

The following amendment to the Harborview Medical Master Plan is determined to be MINOR:

(1) Condition 14 is modified as follows:

Provide one-for-one replacement of all housing units except that the Director may approve fewer than one-to-one replacement of housing units if the affordability tenure of the proposed units is at least 50 years. The Director will waive the requirement that the housing be constructed prior to demolition of housing units if a contribution of \$1.5 million is made by Harborview into a City escrow account to be used for development of the Cabrini Senior Housing project.

All indications are that the Cabrini Senior Housing Project is securing all necessary funding and approvals and is proceeding towards construction as planned. However, in the unlikely event that the Cabrini project does not begin construction in 2005, Harborview shall submit to DPD an alternate replacement project to satisfy this condition. The alternate project must be approved by DPD prior to DPD issuance of a Master Use Permit for any Harborview project after the Inpatient Expansion Building (including renovation of the North Wing) and the Ninth and Jefferson Building, except for minor projects which are projects that are smaller than 20,000 square feet.

Signature: (signature on file) Date: April 1, 2004
Cliff Portman, Principal Land Use Planner, Department of Planning and Development